

REMARKS

The amendments to Claims 1 and 11 are fully supported in the specification as filed. In original Claim 1, an elastic article is claimed. “Elastic article” is defined at page 6, line 1 as one that comprises elastic fiber. “Elastic fiber” in turn is defined in the last paragraph of page 5. That the fiber is an “olefin” fiber is clearly disclosed at page 3, line 10 of the specification. As no new matter is sought to be added, the amendments appear to be proper, and their entry is courteously requested.

Claims 1-5, 7-9, 11-15, and 17-19 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Davis Jr. et al. (US 5,350,423). The present claims can be distinguished from Davis Jr. et al. in that the present claims require the article to be an “elastic” article, whereas Davis Jr. has no suggestion that its materials may include such materials. The present amendments, which provide a further definition of what is meant by the term “elastic”, (i.e. that the article comprises an olefin fiber that will recover at least about 50% of its stretched length after the first pull and after the fourth pull to 100% strain) ensure that the claims now even more explicitly contain recitations directed to this aspect. As nothing in Davis Jr. teaches or suggests the use of elastic fiber (without even addressing whether the articles of Davis Jr. would meet the durability aspect of the claims), the Applicants respectfully request that the rejections based on Davis Jr. be withdrawn.

Claims 1-4, 7-10, 11-16 18, and 19 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Stutz (US 3,396,529). Stutz relates to an elastic yarn made elastic via mechanical means. This can be seen at column 1 lines 63-69, and in claim 1. The elasticity in these yarns is achieved by twisting a multifilament yarn made up of a coarse filament and a plurality of finer filaments and crimping the yarn. This is a very different process than the amended claims which now requires that the fiber itself recover at least about 50% of its stretched length after the first pull and after the fourth pull to 100% strain. There is no teaching or suggestion in Stutz that the filaments themselves can be inherently elastic (or olefin for that matter), and in fact, Stutz specifies at column 2, line 11, that its elastic yarn is to be used *in lieu of* elastomer synthetic stretch yarns. Accordingly, the Applicants respectfully request that the rejections based on Stutz also be withdrawn.

Claims 1-4, 7-10, 11-16, 18 and 19 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over the magazine article referenced on the mopublishing website. The magazine article referenced on the mopublishing website depicts swimwear, but there is no indication that such swimwear comprises any fiber that will recover at least about 50% of its stretched length after the first pull and after the fourth pull to 100% strain, let alone an olefin one, as now required by the claims. Moreover, the elastic articles of the present claims are required to be durable as defined by the test procedure set forth in the claims. There is certainly no way to tell whether the swimwear depicted in the mopublishing website would meet such recitation, but as indicated in the specification, it is not believed that fabrics made from standard spandex, the elastic fiber most commonly used in swimwear as of the date of the referenced publication, would survive the indicated test procedure. Thus it is more likely than not that even if the depicted swimwear referenced in the mopublishing website contained elastic fibers, the swimwear would not be “durable” as set forth in the claims. Accordingly, the Applicants respectfully request that the rejections based on the magazine referenced on the mopublishing website also be withdrawn.

Claims 1-4, 6-9, 11-15, and 18-20 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Ho et al. (WO 99/63021). The disclosure in Ho et al. relates primarily to fiber, film, strip, tape ribbon sheet coatings and moldings comprised of crosslinked ethylene polymer. There is a suggestion at page 51, line 19 that if the article selected from the long list of possibilities was a fiber, and if the fiber selected was a continuous filament (as opposed to staple fibers or the melt blown fibers typically used to make nonwovens), then such fibers could be used in woven applications. This minimal disclosure (3 lines in a 70+ page document), however, does not disclose the invention now claimed. There is no suggestion that the nonwoven article itself (as opposed to just the fiber) could be made to be durable as characterized by the test method recited in Claim 1, particularly if the woven article comprises materials other than the crosslinked ethylene polymer. Moreover, there is no suggestion in Ho et al. to subject a woven material to any of the processes recited in Claim 11, nor any indication that if such processes were performed that the fabric would remain stable. Accordingly, the Applicants respectfully request that the rejections based on Ho et al. also be withdrawn.

Claims 1-4, 7, 11, 12 and 15 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Schlitt (US 3,097,192). Schlitt is limited to segmented polyurethane type filaments, which are clearly not olefin fibers as now recited in the claims. Schlitt also does not teach that articles made from its fibers would be durable as determined by the articles' ability to survive any of the various test procedures recited in the presently amended claims. The Examiner has referred to Example 1 of Schlitt, but in looking at that example (in which the tests are done only on the fiber and not an article comprising the fiber), it is clear that the fiber has been changed considerably by the process. If the fiber alone is changed by the process then it seems reasonable to assume that an article made from such fiber would also be changed, and likely not meet the tests recited in the claims. Accordingly, the Applicants respectfully request that the rejections based on Schlitt also be withdrawn.

Claims 1-4, 7, 8, 11, 12 and 15 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Mohr Jr. et al (US 4,345,908). Mohr Jr. et al. does not contain any teaching or suggestion to use an elastic olefin fiber having the properties now recited in the claims. In fact, from column 1, line 39 of Mohr, it is clear that the fabrics of Mohr are intended to be "devoid of rubber or other elastomeric fibrous material". Thus the fabrics taught by Mohr are not the same as the articles now claimed, nor do they make such article obvious. Accordingly, the Applicants respectfully request that the rejections based on Mohr Jr. et al. also be withdrawn.

Claims 1-4, 7, 8, 11, 12 and 15 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Tsuruta et al. (US 3,522,642). Tsuruta is also directed to a method for imparting elasticity to fabric made with non-elastic fibers. There is no teaching in Tsuruta that olefin fibers having the elastic properties now included in the claims can be used instead of the scouring/heat setting/shrinking procedure described. There is also no suggestion that an elastomeric fiber would be useful when the fabric has already been made elastic through the use of its method. Thus the fabrics taught by Tsuruta are not the same as the articles now claimed, nor do they make such article obvious. Accordingly, the Applicants respectfully request that the rejections based on Tsuruta. et al. also be withdrawn.

Claims 1-4, 7 and 11-15 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Djiauw et al. (WO 01/02630). Like Schlitt above, Djiauw is directed to segmented polyurethane type filaments, and thus are not elastic olefin fibers as now recited in the claims. Moreover, while Djiauw indicates at page 5, line 11 that its *fiber* “should” retain their integrity and elastic performance after passing hot water and hot cleaner dryer cycles, the data in the tables (particularly Table 2 in which elevated temperatures are used) demonstrate that substantial changes are in fact happening to the fiber. Moreover, there is no indication in Djiauw that *articles* made from its fiber (as opposed to the fiber itself) would be durable within the definition set forth in the present claims. Accordingly, the Applicants respectfully request that the rejections based on Djiauw et al. also be withdrawn.

Claims 1-4, 7, 8 and 11-15 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Dutta et al. (US 5,529,830). Dutta et al. teach a laminate structure which includes an elastic fabric attached to a composite structure. Dutta contains no teaching that such elastic fabric may be made with an olefin elastic fiber, and in fact, the only examples of fiber given are the segmented polyurethane fibers similar to those discussed when distinguishing the references Schlitt and Djiauw, above. These materials are inherently less stable than the olefin materials required in the present claims, and so it is not believed that such materials would meet the durability tests recited in the present claims. Moreover, the superior wash durability cited by the Examiner at column 7, lines 7-8 of Dutta, is referring to the hydrophilic layer contained within the hydrophobic polymer layer of the laminate and not to the elastic fabric to which the composite structure is attached. Accordingly, the Applicants respectfully request that the rejections based on Dutta et al. also be withdrawn.

Therefore, in view of the above amendments and arguments, Applicants believe the pending application is in condition for allowance, and therefore courteously request that the Examiner promptly issue a Notice of Allowance.

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